

Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
_____ DIVISION

CURTIS C. WALTER
versus
PORTS AMERICA

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CIVIL ACTION NO. _____

EMPLOYMENT DISCRIMINATION COMPLAINT

1. This action is brought under Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred by Title 42 United States Code, Section § 2000e-5.

2. The Plaintiff is: CURTIS WALTER
Address: 12355 TIDWELL (APT# 910)
HOUSTON, TEXAS - 77044
County of Residence: HARRIS

3. The defendant is: PORTS AMERICA
Address: 99 WOOD AVE. SOUTH 8TH FLOOR
ISELIN, NJ. 08830

☐ Check here if there are additional defendants. List them on a separate sheet of paper with their complete address.

4. The plaintiff has attached to this complaint a copy of the charges filed on _____ with the Equal Employment Opportunity Commission.
5. On the date of 6/20/09, the plaintiff received a Notice of Right to Sue letter issued by the Equal Employment Opportunity Commission; a copy is attached.

6. Because of the plaintiff's:

- (a) ☒ race
- (b) ☐ color
- (c) ☐ sex
- (d) ☐ religion
- (e) ☐ national origin,

the defendant has:

- (a) ☐ failed to employ the plaintiff
- (b) ☐ terminated the plaintiff's employment
- (c) ☐ failed to promote the plaintiff
- (d) ☒ other: DISCRIMINATED AGAINST HIS
DISABILITY

7. When and how the defendant has discriminated against the plaintiff:

PLEASE SEE: ATTACHED MEMORANDUM
IN SUPPORT OF COMPLAINT

8. The plaintiff requests that the defendant be ordered:

- (a) ☒ to stop discriminating against the plaintiff
- (b) ☐ to employ the plaintiff
- (c) ☐ to re-employ the plaintiff
- (d) ☐ to promote the plaintiff
- (e) ☒ to COMPLY WITH THE ESTABLISHED
RULES AND REGULATIONS
_____ and that;
- (f) ☒ the Court grant other relief, including injunctions, damages, costs and attorney's fees.

Conrad C. Wain

(Signature of Plaintiff)

Address:

12355 TIPWELL (APT. # 910)
HOUSTON, TEXAS 77044

Telephone:

713-345-0987

UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF TEXAS

PORTS AMERICA

versus

Civil No. # 460-2009-01055

CURTIS WALTER

MEMORANDUM IN SUPPORT OF COMPLAINT

May it Please This Honorable Court:

That I, Curtis C. Walter, herein after referred to as plaintiff submit the following numbered claims paragraph's to support the statements of fact in the claims that are being raised within this filed suit and would like for this to serve as my attachment of the brief statement fact in the above numbered matter. Therefore, I move upon this cause for action into the jurisdiction of this honorable court pursuant to plaintiff "*Right To Sue*" from the EQUAL EMPLOYMENT OPPORTUNITY COMMISSIONER that was issued under **Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA)**.

Claim: #1

On May 29, 2008 the plaintiff worked on a three-man rice bag gang (herein after referred to as gang) as a certified forklift operator working man within the gang whom effectively fulfilled his assigned duty in collectively working with the other two-gang working men to successfully complete the work assignment as a three-man gang. Nevertheless Ports America (herein after referred to as defendant) whom has ultimate jurisdiction over its payroll discriminatorily singled the plaintiff out of the rest of the

gang withheld the plaintiff mandated work hours as part of an vindictive discrimination of the plaintiff recorded disabilities in ref: (Ports America vs. Curtis Walter No#.08-129694). When enquiring about the discrimination incident to Ports America recognized employee Jose Gandarilla (Hispanic) that was assigned over that job assignment and comparing it to a similar bag gang whom worked beside us the same day whom had working men with similar duties as I had (they were Hispanic) I asked him why didn't they (defendant) discriminated against them (the Hispanics) as they did with me (plaintiff) to which he did not respond. These facts are supported by record and witness.

Claim: #2

On June 10, 2008 the plaintiff worked on a ten-man bag gang as a working man at Ports America in which the plaintiff successfully and effectively completed his entire work assignment. Nevertheless, once again the defendant(whom has ultimate jurisdiction over its own payroll) discriminatorily singled the plaintiff out of the rest of the gang withheld the plaintiff mandated work hours as part of an vindictive discrimination of the plaintiff recorded disabilities in ref: (Ports America vs. Curtis Walter No#.08-129694). These facts are also supported by record and witness.

Claim:#3

On February 27, 2009 I was working at Ports America with a bag-gang where my duty was to secure the cargo for the bag-gang and clean out the bag-gang railcars for them as the requirement. The plaintiff successfully and effectively completed his entire work assignment as required by the defendant. Nevertheless, once again the defendant(whom has ultimate jurisdiction over its own payroll) discriminatorily singled the plaintiff out of the rest of the gang withheld the plaintiff mandated work hours as part of an vindictive discrimination of the plaintiff recorded disabilities in ref: (Ports America vs. Curtis Walter No#.08-129694). These facts are also supported by record and witness.

Wherefore the plaintiff prays that this Honorable Court grant his complaint as a matter of Law and Constitutional Rights.


Curtis C. Walter

12355 Tidwell (Apt.#910)

Houston, TX 77044

Phone# (713) 345-0987

EEOC Form 161-B (3/98)

U.S. E. . . EMPLOYMENT OPPORTUNITY COMM.

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Curtis C. Walter**
11100 East Fm1960
Apartment No.#534
Huffman, TX 77336

From: **Houston District Office**
1919 Smith St, 7th Floor
Houston, TX 77002

☐ On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

460-2009-01055

Nicholas Alwine,
Enforcement Supervisor

(713) 209-3422

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☐ More than 180 days have passed since the filing of this charge.
- ☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Enclosures(s)


R.J. Ruff, Jr.,
District Director

6/18/09
 (Date Mailed)

CC: **Nathan Wesely**
Human Resource Manager
WEST GULF MARITIME ASSOCIATION
1717 East Loop, Suite 200
Houston, TX 77029

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

460-2009-01055

Texas Workforce Commission Civil Rights Division

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Curtis C. Walter

Home Phone (Incl. Area Code)

(713) 345-0987

Date of Birth

10-29-1967

Street Address

City, State and ZIP Code

11100 East Fm1960, Apartment No.#534,**Huffman, TX 77336**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

PORTS AMERICA

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(832) 615-7200

Street Address

City, State and ZIP Code

8222 Manchester Street**Houston, TX 77012**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

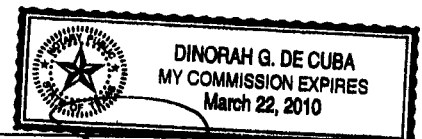
☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☒ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**05-29-2008****02-27-2009**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

On 5/29/08 all of my co-workers got paid for 12 hours of work whereas I got paid for 11 hours. I complained about not being paid the 1 hour to the Gang Foreman, Cedric O'Neil; the Walking Foreman, Jose Gandarilla; the Business Agent, Barry Wade; and Business Agent, Tim Harris, however, no action was taken in my behalf. On 6/10/08 my co-workers got paid for 7 hours of work whereas I ~~was~~ got paid for 4 hours. I complained to the Gang Foreman, Hines (first name unknown); Walking Foreman, Jose Gandarilla; and Business Agents Barry Wade and Tim Harris, again no action was taken in my behalf. On 2/27/09 I was paid for 4 hours of work instead of the 8 hours I was due.

I believe I have been discriminated against because of my race, Black, in violation of Title VII of the Civil Rights Act of 1964 as amended. I also believe I was discriminated against because of my disability in violation of the Americans with Disabilities Act.



I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)**May 05, 2009**

Date

Charging Party Signature

May 5, 2009